

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION -DAYTON**

OLWIN METAL FABRICATION LLC,	)	
	)	CASE NO.
Plaintiff,	)	
vs.	)	
	)	
MULTICAM INC.	)	JUDGE
	)	
and	)	
	)	
MULTICAM GREAT LAKES, INC. d/b/a	)	
MULTICAM OHIO VALLEY	)	
TECHNOLOGY CENTER	)	
	)	
Defendants.	)	
	)	

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant MultiCam Inc. incorrectly identified as “Multi-Cam Inc.” by Plaintiff Olwin Metal Fabrication LLC (“Plaintiff”), by and through counsel, hereby removes this action from the Court of Common Pleas of Montgomery County, Ohio, to the United States District Court for the Southern District of Ohio, Western Division. This action, captioned *Olwin Metal Fabrication LLC v. Multi-Cam Inc., et al.*, Case No. 2022 CV 01134, in the state court, is removable because this Court has subject matter jurisdiction by way of diversity jurisdiction pursuant to 28 U.S.C. § 1332. MultiCam Inc. respectfully asserts the following facts to support removal, and in doing so, expressly reserves all other questions, other than that of removal, for the purpose of further pleadings.

**PROCEDURE AND BACKGROUND**

1. On or about March 15, 2022, Plaintiff Olwin Metal Fabrication LLC commenced this civil action in the Court of Common Pleas of Montgomery County, Ohio (“State Court”),

which matter was styled *Olwin Metal Fabrication LLC v. Multi-Cam Inc., et al.*, Case No.: 2022 CV 01134 (the “Action”).

2. This Notice of Removal is brought by and on behalf of MultiCam Inc. Counsel for MultiCam Inc. has consulted with counsel for Defendant Multicam Great Lakes, Inc. d/b/a Multicam Ohio Valley Technology Center (“Multicam Great Lakes”) and has been advised that Defendant Multicam Great Lakes consents to this removal.

3. The Action includes claims for breach of contract, non-acceptance (pursuant to Tex. Bus. & Com. Code Sec. 2.606), revocation of acceptance (pursuant to Tex. Bus. & Com. Code Sec. 2.608), and unjust enrichment.

4. The Complaint was filed electronically with the Clerk of the State Court and the Action is currently pending in the State Court.

5. MultiCam Inc. was sent a copy of the Complaint via Federal Express commercial service. It was received on or about March 16, 2022.

6. Multicam Great Lakes was sent a copy of the Complaint via Federal Express commercial service. It was received on or about March 18, 2022.

7. At the time of filing this Notice of Removal, neither Defendant has filed an Answer to the Complaint or otherwise appeared in the Action.

8. Pursuant to 28 U.S.C. § 1446(a), the only process, pleadings, and orders filed or issued in the Action are: Plaintiff’s Complaint (**Exhibit A**); the Case Information Sheet (**Exhibit B**), the Instructions for Service (**Exhibit C**), the Civil Summons (**Exhibit D**), three Service Return Receipts (**Exhibits E, F, and G**), and Amended Complaint (**Exhibit H**).

### **DIVERSITY JURISDICTION**

9. Removal of the Action is proper under 28 U.S.C. §§ 1441(a) and (b) because this Court has diversity jurisdiction under 28 U.S.C. § 1332(a). As further explained below, there is complete diversity of citizenship and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

10. Defendant MultiCam Inc. is a Texas corporation with its principal place of business in Tarrant and Dallas Counties, Texas

11. Multicam Great Lakes is a Michigan corporation with its principal place of business in Kent County, Michigan.

12. In Paragraph 1 of its Complaint, Plaintiff alleges it is an Ohio Limited Liability Company. Upon information and belief, no member of Plaintiff is a citizen of Texas or Michigan.

13. As Plaintiff is not a citizen of Texas or Michigan, and Defendants are citizens of Texas and Michigan respectively. Therefore, there is complete diversity of citizenship between Plaintiff and Defendants.

14. The amount in controversy exceeds \$75,000, exclusive of interests and costs. “[A] defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014). “[W]hen a defendant seeks federal-court adjudication, the defendant’s amount-in-controversy allegation should be accepted when not contested by the plaintiff or questioned by the court.” *Id.* at 553.

15. In Paragraphs 14, 17, 20, 24, 27, and its Prayer for Relief, Plaintiff states “... Plaintiff has been damaged in the principal amount of \$223,304 (the cost of the Machine), together with damages from lost time, lost materials, loss of business and incidentals....

16. Thus, based on the allegations in Plaintiff's Complaint, the amount of controversy is stated to be in excess of \$75,000, exclusive of interest and costs.

17. Accordingly, MultiCam Inc. is entitled to remove the Action pursuant to 28 U.S.C. § 1446, because diversity of citizenship exists and the amount in controversy exceeds \$75,000, exclusive of interest and costs, as required by 28 U.S.C. § 1332.

### **PROPRIETY OF REMOVAL**

18. This Notice of Removal is timely filed with this Court pursuant to 28 U.S.C. § 1446(b), as it is within thirty (30) days after MultiCam Inc. received notice of the Action.

19. The Action was filed in a state court within the judicial district of the United States District Court for the Southern District of Ohio.

20. MultiCam Inc. will give written notice of this removal to Plaintiff and will timely file an appropriate Notice of Filing Notice of Removal with the Court of Common Pleas of Montgomery County, Ohio, as required by 28 U.S.C. § 1446(d). A copy of the Notice to be filed with the Court of Common Pleas is attached hereto as **EXHIBIT I**.

21. This Notice of Removal is signed pursuant to Federal Rule of Civil Procedure 11, as required by 28 U.S.C. § 1446(a).

### **ADDITIONAL CONSIDERATIONS**

22. The facts and allegations in this Notice of Removal are derived from the Complaint filed in this Action. MultiCam Inc. does not concede the truth or accuracy of any of the factual allegations contained in the Complaint.

23. MultiCam Inc. expressly reserves all rights, defenses, and motions otherwise available to it, including but not limited to those under Rule 12 of the Federal Rules of Civil Procedure.

24. MultiCam Inc. expressly reserves the right to submit additional evidence in support of this Notice of Removal, including as may be necessary to address and refute any contentions set forth in a motion to remand.

**WHEREFORE**, MultiCam Inc. removes the Action from the Court of Common Pleas of Montgomery County, Ohio, so that all further proceedings in this action be held before this Court.

Respectfully submitted,

This 14th day of April, 2022

s/ Kelly E. Mulrane  
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*Attorneys for Defendant MultiCam Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of April, 2022, I filed a *Notice of Removal* by CM/ECF, and served a copy of same by U.S. mail, postage prepaid, and electronic mail upon counsel as follows:

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*Defendant*

s/ Kelly E. Mulrane  
Kelly E. Mulrane (0088133), Trial Attorney

*One of the Attorneys for Defendant MultiCam Inc.*